

The 22nd, January, 1986

No. 9/9/86-6 Lab./80.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Toumech India, 1-G/72, N. I. T., Faridabad.

BEFORE SHRI R. N. BATRA, PRESIDING
OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 586/1983

between

SHRI BHAGWAN SAHAI VERMA, WORKMAN
AND THE MANAGEMENT OF M/S
TOUMECH INDIA, 1-G/72, N.I.T.,
FARIDABAD-121001

Present.—

Shri C. L. Oberai, for the workman.

Shri G. S. Chaudhary, for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Bhagwan Sahai Verma and the management of M/s. Toumech India, 1-G/72, N.I.T., Faridabad-121001 to this Tribunal for adjudication:—

Whether the termination of service of Shri Bhagwan Sahai Verma was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. The claimant, in his demand notice dated 21st July, 1983, and claim statement dated 17th September, 1984, alleged that he was employed by the respondent-management as Turner in July, 1982, and was getting Rs. 400 per month. It was further alleged that respondent obtained his signatures on a resignation letter forcibly and had slapped him and threatened him with dire consequences, if he did not sign the resignation letter. It was further alleged that the claimant approached the General Secretary of the Union regarding the incident. A letter was sent to the management regarding that incident,

but no reply was received. It was further alleged that the management did not appear in conciliation proceedings and since the services of the claimant were terminated illegally, therefore, he was entitled to reinstatement with full back wages.

3. The management in its written statement dated 16th October, 1984, pleaded that the Industrial Tribunal had no jurisdiction to try the present reference and that the claimant submitted his resignation voluntarily by his own sweet will and had taken the amount in full and final settlement. It was further pleaded that section 2-A of the Industrial Disputes Act, 1947, was not applicable to the present management because the provisions of section 22 of the Punjab Shops and Commercial Establishment Act, 1958, prevailed over the provisions of the Industrial Disputes Act, 1947. It was also pleaded that the claimant remained gainfully employed.

4. The claimant in his rejoinder dated 12th November, 1984, reiterated the pleas taken in the demand notice/claim statement.

5. It may be mentioned that issues were framed on 13th December, 1984, and the management examined one witness and documents Ex. M-1 to M-5 were tendered into evidence, while the claimant appeared in the witness box and documents Ex. W-1 to W-10 were tendered into evidence. Arguments of both the representatives of the parties have been heard. A preliminary objection has been raised by the representative of the management that Industrial Tribunal could not decide the present dispute and was not competent to do so because the dispute regarding the resignation was not referred by the Government to the Industrial Tribunal and that reference was made as to whether the termination of services of the claimant was in order and justified or not, assuming that the claimant had not tendered the resignation. The representative of the claimant, on the other hand, argued that the reference made by the Government was valid. In the ruling reported as *C. R. Ramaswami versus Needle Industries (I) Ltd. and another*, 1981, Lab. I.C. 765, it is held that where the employee had tendered resignation and made a request and his resignation was accepted, it did not amount to termination of services of the employee. In the ruling reported as *India Tourism Development Corporation, New Delhi versus Delhi Administration, Delhi, and others*, 1982, Lab., I.C. 1309, the real dispute between the parties was whether there was lock out or closure in the Establishment, but the Government referred the dispute by assuming there was a lock out. It was held that the order

of reference was liable to be interfered with as the Labour Court could not travel, beyond reference and decide the question as to whether there was a lock out. In the ruling reported as *Firestone Tyre and Rubber Company of India Private Ltd. versus Workmen employed represented of Firestone Tyre Employees Union* 1981 (2) S.L.R. 714. The Hon'ble Supreme Court held that Industrial Tribunal was not competent to decide on the matter not referred to it and that award travelling outside the reference was illegal. Following these rulings, it is held that the reference made by the Government in the present case is not valid because the real point in controversy between the parties regarding alleged resignation has not been referred to the Industrial Tribunal. Consequently, the preliminary objection prevails and it is held that reference made by the Government in the present case is incompetent and invalid. The award is passed accordingly.

Dated the 1st January, 1986.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 3, dated 1st January,
1986.

Forwarded (Four Copies) to the
Commissioner and Secretary to Government,
Haryana, Labour and Employment Departments,
Chandigarh, as required under sub-section 15 of
the Industrial Disputes Act, 1947.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/9/86-6Lab./81.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Eicher Goodearth Ltd., N.I.T., Faridabad.

BEFORE SHRI R. N. BATRA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 109/1983

between

SHRI GIRRAJ SINGH, WORKMAN AND THE
MANAGEMENT OF M/S. EICHER GOOD-
EARTH LTD., N.I.T., FARIDABAD

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Girraj Singh, workman and the management of M/s. Eicher Goodearth Ltd. N.I.T., Faridabad, to this Tribunal, for adjudication:—

Whether the termination of service of Shri Girraj Singh was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. The claimant in his demand notice, dated 7th December, 1982, and claim statement, dated 14th May, 1984 alleged that he was working in the respondent factory since 14th October, 1979 as helper at the rate of Rs. 14 per day, but he was suddenly not allowed to join duty on 1st December, 1982, when no letter or charge-sheet, etc., was given to him nor any enquiry was held and further that no reasons were given for terminating his services nor any amount under Section 25-F of the Industrial Disputes Act, 1947, was paid to him. It was, therefore, alleged that the termination of his services was illegal and unjustified.

3. The management in its written statement, dated 21st May, 1984 pleaded that the claimant was working as casual worker and had worked only for 272 days within a period of more than 2½ years, i.e., from 9th April, 1980 to 5th November, 1982. It was further pleaded that he was a daily rated worker and had never been in the regular employment. It was also pleaded that being a casual worker, the claimant could not claim any right of reinstatement.

4. The claimant in his re-joinder, dated 21st June, 1984 reiterated the pleas taken in the claim statement.

5. On the pleadings of the parties, the following issues were framed on 3rd August, 1984:—

- (1) Whether the claimant was working as casual worker as pleaded? OPM
- (2) Whether the termination of services of Shri Girraj Singh, was justified and in order? If not, to what relief is he entitled? OPM.

6. It may be mentioned that the management has examined one witness and the documents, Exhibit M-1 and M-2 have been tendered into evidence. The claimant has appeared in the witness-box. After going through the entire evidence and hearing the representatives of both the parties, my findings on the above issues are as under :—

ISSUE NO. 1:

7. The management has examined MW-1 Shri Hari Mohan, Junior Personnel Officer, who stated that he was working in the respondent factory since 20th September, 1967 and that recruitment was done by the Personnel Department. He further stated that casual workers were employed on the basis of the demand in the workshop and that Incharge of the Workshop verified the attendance of the workman and the record was received in the Personnel Branch. He further stated that he had prepared the chart Exhibit M-1 showing the attendance of the claimant on different dates from April, 1982 to November, 1982, and that payment was made on weekly basis or the days he actually worked. He further stated that the claimant was not confirmed by the management and was a Helper in material movement. The document, Exhibit M-2 was tendered into evidence.

8. Shri Girraj Singh, claimant, stated that he was employed on 14th October, 1979 on the job of Tractor Assembly, which job was of a permanent nature and that he was turned out on 1st December, 1982, when no charge-sheet or notice pay was given to him. He further stated that he was willing to work in the factory.

9. A perusal of the above evidence would show that MW-1 Shri Hari Mohan has deposed that the claimant was a casual worker and was not confirmed. Chart, Exhibit M-1 produced by this witness shows that the claimant worked for 151 days in 1980, 58 days in 1981 and 63 days in 1982. Exhibit M-2 relates to the wages paid to the casual workers and the details of payment made to the claimant during the year 1980, 1981 and 1982 have been shown in this statement. The management has thus led oral as well as documentary evidence to show that the claimant was a casual worker. The oral testimony of the claimant WW-1 to the effect that he was working against permanent job cannot be accepted because no appointment letter has been produced to the

effect that he was appointed against any permanent post or that he was ever confirmed. The evidence produced by the management thus goes to show that the claimant was a casual worker. The issue is decided accordingly in favour of the management.

ISSUE NO. 2:

10. The management has led oral as well as documentary evidence referred to in Issue No. 1 to the effect that the claimant was a casual worker and had worked for 151 days in 1980, 58 days in 1981 and 63 days in 1982. The evidence shows that he had not worked for 240 days in any year continuously. The document, Exhibit M-1 shows that the claimant did not work continuously during the period 9th April, 1980 to 6th December, 1980 but thereafter he worked on 5th January, 1981 and 3rd June, 1981. Similarly after 10th September, 1981 he joined duty on 25th November, 1981 for one day and again joined duty on 25th May, 1982. Likewise after 5th August, 1982, he joined duty on 25th October, 1982. The position would have been different if there were gaps of one or two days, but in the present case there are gaps ranging between one month to six months. Consequently the claimant did not remain in continuous service for 240 days in any year and as such the provisions of Sections 25-F and 25-B of the Industrial Disputes Act, 1947, are not attracted to the facts of the present case.

11. It may be mentioned that the representative of the workman placed reliance on the ruling reported as *The Kapurthala Central Co-operative Bank Ltd., Kapurthala v. The Presiding Officer, Labour Court, Jullundur and others*, 1984, Lab.I.C. 974 which relates to unfair labour practice. In the present case no plea regarding unfair labour practice has been taken in the pleadings. As such, the ruling is distinguishable on facts. The management placed reliance on the ruling reported as *Crompton Engineering Co. (Madras) Private Ltd., and Additional Labour Court, Madras and others*, 1957 ILLJ 207, which relates to a case where the workman was appointed for a specific period or for a particular work. This ruling is also distinguishable on facts because in the present case, there is no evidence that the claimant was appointed for a specific period or for a particular work. The second ruling of the management is *Subash Purohit and others v. The State of Rajasthan and others*, 1981-Lab.I.C. 719. This ruling is also distinguishable

on facts because in that case, the petitioner was appointed for a specific period from 26th February, 1979 to 9th November, 1979 whereas the claimant was not appointed for any specific period, as mentioned above.

12. In view of the above discussion, it is held that the claimant was a casual worker and had not completed 240 days continuous service in any year and as such the provisions of Section 25-F/25-B of the Industrial Disputes Act, 1947, are not attracted in the present case, and, consequently, it cannot be held that termination of services of the claimant was unjustified and illegal and as such the claimant is not entitled to any relief. The award is passed accordingly. The 1st January, 1986.

R. N. BATRA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 4, dated 1st January, 1986.

Forwarded (four copies), to the Commissioner and Secretary, to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/9/86-6-Lab./82.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Joy B-Industries, Plot No. 162, Sector 24, Faridabad.

**BEFORE SHRI R. N. BATRA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD**

Reference No. 159/1983

between

**SHRI KAULASAWAR, WORKMAN AND THE
MANAGEMENT OF M/S. JOY B. INDUSTRIES,
PLOT NO. 162, SECTOR-24, FARIDABAD**

Present:—

Shri G. L. Oberai, for the workman.

Shri R. C. Sharma, for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute between Shri Kaulasawar, workman and the management of M/s. Joy B. Industries, Plot No. 162, Sector 24, Faridabad, to this Tribunal for adjudication:—

Whether the termination of service of Shri Kaulasawar was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. In the demand notice, dated 20th December, 1982 it was alleged that the claimant was employed on 18th September, 1980 and was drawing Rs. 340 per month, when his services were illegally terminated on 13th August, 1982. It was further alleged that no notice pay or compensation was paid to the claimant nor any seniority list was prepared and circulated and no notice was sent to the Government. It was, therefore, prayed that the claimant be reinstated with full back wages.

3. The management in its written statement, dated 31st October, 1984, pleaded that the claimant joined service as Helper on 1st June, 1981. It was further pleaded that there had been general reduction in the orders as there was less demand for the goods manufactured by the respondent management, due to which the management was forced to reduce the strength of the workers and general retrenchment was effected on 13th August, 1982. It was further pleaded that the claimant was served with a notice of retrenchment and that net amount of Rs. 946.71 Paise was paid to the claimant after making E.S.I. and Provident Fund and advance deductions. It was pleaded that the management displayed a seniority list and submitted form (P) to the Government. It was also pleaded that 55 workers including the claimant were retrenched according to law and that the claimant was gainfully employed.

4. The claimant in his rejoinder, dated 23rd November, 1984 reiterated the pleas taken in the claim statement.

5. On the pleadings of the parties, the following issues were framed on 23rd November, 1982:—

(1) Whether the claimant was gainfully employed? OPM.

- (2) Whether the termination of services of Shri Kaulasawar was justified and in order? If not, to what relief is he entitled? OPM.

6. It may be mentioned that the management has examined one witness and documents, Exhibit M-1 to M-5, have been tendered into evidence. The claimant has examined two witnesses. After going through the entire evidence and hearing the representatives of both the parties, my findings on the above issues are as under :—

ISSUE NO. 1:

7. No evidence has been led by the management on this issue, while the claimant stated that he was not employed. Consequently, the management has failed to prove that the claimant was gainfully employed. The issue is decided accordingly against the management.

ISSUE NO. 2:

8. The management has examined MW-1 its Manager Shri Subhash Sood, who stated that their factory manufactured spare parts of Escorfs, etc., by way of casting. He further stated in January, 1982 there was a great slump in the market, which adversely affected the respondent industry because the orders were not being received when they decided to retrench the workers. He further stated that in January, 1982 there were 155 workers including the casual workers, and that seniority list was displayed on the notice board copy, Exhibit M-2 and that the workers were retrenched on 13th August, 1982 including the claimant. He further stated that notice, Exhibit M-2 was given to the claimant, who received the net amount of Rs. 946.71 Paise in his presence, the details of which were given in Exhibit M-3. He further stated that this document was signed by the claimant. He also stated that notice in form 'P' was sent to the Government, Exhibit M-4 and that Exhibit M-5 was the list of all the retrenched employees.

9. Shri Kaulasawar, claimant has appeared as WW-1 and stated that he worked for about two years in the respondent factory, when he was turned out on 13th August, 1982 and that no notice was given to him at that time and that no retrenchment compensation was given to him. He further stated that his signatures were obtained on the revenue stamp, when the amount of incentive was paid to him on the paper like Exhibit M-3. He further stated that the document, Exhibit M-2 did not bear his signatures.

In cross-examination, he stated that his signatures were obtained on 13th August, 1982 on Exhibit M-3 and that he received Rs. 100 only as the amount of incentive. WW-2 Shri Bachu Ram stated that 57 workers were retrenched and that no amount was paid to the claimant at that time.

10. A perusal of the evidence would show that the testimony of MW-1, Shri Subhash Sood, Manager of the respondent factory is to the effect that due to slump in the market, the work became less and that 55 workers were retrenched on 13th August, 1982, including the claimant. He further deposed that the seniority list, Exhibit M-1 was displayed on the notice board, and that termination notice, Exhibit M-2 was given to the claimant and that the claimant also received the net amount of Rs. 946.71 Paise on the basis of the document, Exhibit M-3. He further stated that form 'P', Exhibit M-4 was sent to the Government and that, Exhibit M-5 contained the names of 55 workers, who were retrenched. The management was thus led evidence to show that they complied with all the formalities before effecting retrenchment on 13th August 1982. The oral testimony of MW-1 Shri Kaulasawar, claimant and WW-2 Shri Bachu Ram to the effect that no amount was paid to the claimant as notice pay and compensation cannot be accepted because the claimant admitted his signatures on Exhibit M-3 in cross-examination but he stated that he received the amount of Rs. 100 only as incentive. The document, Exhibit M-3 shows that the net amount of Rs. 946.71 Paise was paid to the claimant after making deductions of Provident Fund, E.S.I. and advance. WW-2 Shri Bachu Ram stated that he was not present in the Cash Department but he was told by the claimant that no amount was paid to him. His testimony does not help the claimant because this witness was not present when payment was made to the claimant in the Cash Department. The plea of the claimant that seniority list was not displayed and notice was not given to him cannot be accepted because MW-1 Shri Subhash Sood clearly stated that seniority list, Exhibit M-1 was displayed on the notice board and that retrenchment notice, Exhibit M-2 was given to the claimant. Merely because no postal receipt of sending the notice in form 'P' has been produced is no ground to hold that this notice was not sent to the various authorities because MW-1 Shri Subhash Sood stated that this notice was sent to the concerned authorities.

11. It was argued that reasons given by the management were not cogent because there was no evidence that less orders were received by the

respondent company. The claimant has been given notice pay as well as compensation and it is mentioned in the retrenchment notice that due to slump in the market less orders were being received. Moreover, in the ruling reported as *Babaji Charan Swain and others v. Union of India and others*, 1973 Lab.I.C. 742, it is laid down that it is not necessary to indicate the reasons for retrenchment where payment of wages for period of notice is made.

12. In view of the above discussion, it is held that the management has succeeded in proving that the services of the claimant were terminated in accordance with the provisions of Section 25-F of the Industrial Disputes Act, 1947. As such, the claimant is not entitled to any relief. The award is passed accordingly.
The 1st January, 1986.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 5, dated the 1st January, 1986.

Forwarded, four copies, to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 1st January, 1986.

No. 9/9/86-6-Lab./83.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of (i) M/s. Managing Committee, Arya Girl College, Staff Road, Ambala Cantt (ii) Shanta Malhotra, Principal Arya Girls College, Staff Road, Ambala.

BEFORE SHRI R. N. BATRA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 251/1981
between

(i) SHRIMATI MOHINI DEVI, WORKMAN AND
THE MANAGEMENT OF M/S MANAGING
COMMITTEE, ARYA GIRL COLLEGE,
STAFF ROAD, AMBALA CANTT.

(ii) SHANTA MALHOTRA, PRINCIPAL, ARYA
GIRLS COLLEGE, STAF ROAD, AMBALA
CANTT.

Present:

Shri Rajeshwar Nath, for the workman.
Shri Mohan Lal Gupta, for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute between Shrimati Mohini Devi, workman and (1) The management of M/s. Managing Committee, Arya Girls College, Staff Road, Ambala Cantt. and (ii) Mrs. Shanta Malhotra, Principal Arya Girls College, Staff Road, Ambala Cantt., to this Tribunal for adjudication:—

Whether the termination of services of Shrimati Mohini Devi was justified and in order? If so, what relief is she entitled?

2. Notices were issued to both the parties. The claimant in her demand notice, dated 20th March, 1981 alleged that she was appointed as Peon in Arya Girls College, Ambala Cantt., on 19th May, 1969 and worked till 14th July, 1980. It was further alleged that Shrimati Shanta Malhotra, Principal of the College adopted vindictive attitude and started insulting her in the presence of the students and other colleagues. It was further alleged that on 2nd July, 1980 at the instance of the Principal, Smt. Chanda sprayed flit on the face of the claimant but no action was taken regarding that incident. It was further alleged that the claimant became ill and was not paid any amount during the period of illness although medical certificates were sent by her. It is further alleged that services of the claimant were terminated on 21st October, 1980 illegally without payment of any notice pay or compensation. It was, therefore, prayed that the claimant be reinstated with full back wages.

3. The management in its written statement, dated 18th January, 1981 pleaded that the claimant was a part time temporary Peon in the College. It was further pleaded that the allegations made by the claimant were incorrect, but, on the other hand, the claimant was asked on 14th July, 1980 by the Principal to attend the work of the staff room, but she used unparliamentary language and left the College

without any leave application and that on 14th August, 1980 the claimant was asked to give explanation and to beg pardon for her misconduct but the claimant refused to do so. It was further pleaded that on 20th September, 1980, the claimant applied for leave and sent a medical certificate from a Private Practitioner when she was directed to furnish certificate from the Chief Medical Officer, Civil Hospital, Ambala City, but the claimant did not comply with that order and, therefore, her services were terminated on 21st October, 1980 with effect from 14th July, 1980 and that since she had left the services without notice, her one month's salary had been forfeited in lieu of notice. It was further pleaded that Industrial Tribunal had no jurisdiction to try the matter because College was not an industry and the claimant was not a workman. It was also pleaded that since 1979 the petitioner was made full time employee, but purely on temporary basis.

4. The claimant in her repounded filed on 17th December, 1981 reiterated the pleas taken in the claim statement.

5. On the pleadings of the parties, the following issues were framed on 16th February, 1982 and 14th July, 1982:—

(1) Whether the management was not an industry as pleaded? OPM

(1-A) Whether the workman was a part time temporary Peon? If so, with what effect? OPM.

(2) Whether the workman remained absent from her job? OPM.

(3) Whether the termination of service of the claimant was justified and in order? If not, to what relief is she entitled? OPM.

6. It may be mentioned that the management has examined two witnesses and documents, Exhibit M-1 to M-24 have been tendered into evidence. The claimant has appeared in the witness-box and documents, Exhibit W-1 has been tendered into evidence. After going through the entire evidence and hearing the representatives of both the parties, my findings on the above issues are as under:—

ISSUE NO. 1:

It was argued that the respondent institution was not covered by the definition of 'Industry'

as appearing in Section 2-j of the Industrial Disputes Act, 1947. The argument does not carry weight because education institution has been exempted from this definition by virtue of the amendment, which came into force, with effect from 21st August, 1984. The present reference was made in 1981 and was pending in 1984. The amendment has not been made with retrospective effect. As such, the respondent institution is an industry under the provisions of section 2-j of the Industrial Disputes Act, 1947 which was in force in 1981. The issue is decided accordingly in favour of the claimant and against the management.

ISSUE NO. 1-A:

7. Shri Lok Nath, Accountant of the management stated that the claimant was appointed in July, 1969 as part time Sweeper, but was made regular in January, 1979, on full time basis. Exhibit M-22 is the copy of the proforma sent by the management which show that the claimant was made regular with effect from 1st January, 1979 and prior to that she was a part time Sweeper. The testimony of MW-1 Shri Lok Nath and recitals made in the documents, Exhibit M-22, therefore, go to prove that the claimant became a regular temporary employee with effect from 1st January, 1979. The issue is decided accordingly against the management.

ISSUE NO. 2 AND 3:

8. Both these issues are interlinked and can thus be decided together MW-1 Shri Lok Nath, Accountant stated that the claimant was absent with effect from 14th July, 1980. MW-2 Smt. Shanta Malhotra, Principal, stated that the claimant left the job of her own accord on 14th July, 1980 and thereafter she came on 14th August, 1980, when she was asked to give her explanation. She further stated that the claimant left without giving any explanation and on 20th September, 1980, sent the medical certificate, Exhibit M-1. She further stated that the claimant was asked to produce medical certificate from the Chief Medical Officer,—vide letter, Exhibit M-2, but the claimant did not do so and that letter, Exhibit M-3 was written to her. She further stated that letters, Exhibit M-4 and M-5 were sent by the claimant and Exhibit M-6 and M-7 were the medical certificates, which were not accepted by the witness. She also stated that Exhibit M-8 was the letter written by the claimant, and that, Exhibit M-9 was the medical certificate, while Exhibit M-10 was the salary statement. This witness also proved the documents, Exhibit M-11 to M-24.

9. Smt. Mohini Devi, claimant, while appearing WW-1 stated that she was employed as Peon in 1969 and that her services were terminated in 1980,—*vide* letter, Exhibit W-1. She further stated that on 2nd April, 1980, when she was performing her duty, Smt. Chanda, Waterman, sprinkled filth on the face of the claimant, but she informed the Principal that the claimant was a patient of small-pox, when the Principal asked her to proceed on leave and report for duty after recovery. She further stated that she came for duty on 14th July, 1980, but was asked to leave the College on the alleged ground that the claimant had committed mischief by placing a piece of small glass on the seat of the Principal, even though that incident was denied by her. She further stated that no charge-sheet was given to her nor any enquiry was held and no notice pay or compensation was given to her. She further stated that she submitted the medical certificates and that her services were terminated illegally.

10. A perusal of the above evidence would show that, Exhibit M-6 is the medical certificate for the period 7th July, 1980 to 12th July, 1980 of the claimant. Exhibit M-7 is the medical certificate, dated 20th September, 1980 issued by Dr. (Mrs.) Anita Bhushan, B.Sc. M.B.B.S. Regd. No. 19638, Mahesh Nagar, Ambala Cantt., who was running, Arya Bhushan Maternity and Nursing Home. In this certificate, it is recited that the claimant was under treatment of the Doctor from 15th July, 1980 and that she was not fit to resume her duty. Exhibit M-5 is the letter by which this medical certificate was sent to the Principal of the respondent College,—*vide* letter, dated 29th September, 1980, Exhibit M-2, the claimant was asked by the Principal of the College to report to Chief Medical Officer, Ambala City, for medical examination and also to submit her explanation for the misbehaviour and absence from duty. Exhibit M-19 is the reply sent by the claimant on 14th October, 1980 in which it was mentioned that the claimant had produced the medical certificate from M.B.B.S. Doctor and that due to great weakness, she could not go to Civil Hospital and that necessary conveyance arrangements be made by the College Authorities so that she could appear before Chief Medical Officer. She denied the allegations regarding the alleged misbehaviour and took the plea that filth was sprinkled on her face by the Waterman of the College and that she was not feeling well. On receipt of this letter, the impugned order, Exhibit M-3 (W-1)

was issued by the Principal of the College on 21st October, 1980 in which it was mentioned that her behaviour was very rude and that she have absented herself without permission and had made false allegations and as such her services stood terminated with effect from 14th July, 1980 and that her one month salary had been forfeited due to her absence in lieu of notice. All this evidence goes to show that the claimant had submitted a medical certificate, with effect from 7th July, 1980 up to 20th September, 1980 from Doctor (Mrs.) Anita Bhushan, M.B.B.S., and the claimant was asked to submit her explanation for the alleged misbehaviour and to appear before the Chief Medical Officer. The claimant submitted her explanation, Exhibit M-19 and proved that conveyance arrangement be made because she was not in a position to appear before the Chief Medical Officer. No charge-sheet was given to the claimant nor any enquiry was held against her. However, on 21st October, 1980 her services were terminated on the ground of absence from duty from the back date, i.e., 14th July, 1980,—*vide* letter, Exhibit M-3. No compensation was paid to the claimant. Consequently, the provisions of Section 25-F of the Industrial Disputes Act, 1947, were not complied with when the services of the claimant were terminated. As such, the termination of services of the claimant was neither justified nor proper because the same were terminated in violation of the provisions of Section 25-F of the Industrial Disputes Act, 1947 and as such, the claimant is entitled to reinstatement with full back wages. The award is passed accordingly.

The 1st January, 1986.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 6, dated 1st January, 1986.

Forwarded, (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.